

April 16, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
700 Central Building
810 Third Avenue
Seattle, Washington 98104

REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Natural Resources,
Natural Resources Division File No. **E95CT004**
Proposed Ordinance No. **96-234**

Open Space Taxation (Current Use Assessment) for Timberland

Application of: **MEL SCHWAN**
4331 SW Luana Beach Road
Vashon Island, WA 98070

Location: 4331 SW Luana Beach Road, Vashon Island

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

PRELIMINARY REPORT:

The Department of Natural Resources, Natural Resources Division's Preliminary Report on Item No. E95CT004 was received by the Examiner on March 27, 1996.

PUBLIC HEARING:

After reviewing the Natural Resources Division's Report and examining available information on file with the application, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. E95CT004 was opened by the Examiner at 9:42 a.m., April 10, 1996, in the 12th Floor Conference Room "Ginger", King County Courthouse, 516 Third Avenue, Seattle, Washington, and closed at 9:47 a.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

- General Information:

Owner:	Mel Schwan 4331 SW Luana Beach Road Vashon Island, WA 98070
Location:	4331 SW Luana Beach Road, Vashon Island
Zoning:	RA2.5P
Acreage:	
Property Total:	7.97 acres
Subject to Application:	6.78 acres
Recommended:	6.78 acres
STR:	NE-SW-14-22-03
- Except as modified herein, the facts set forth in the Natural Resources Division's Report to the King County Hearing Examiner for the April 10, 1996, public hearing are found to be correct and are incorporated herein by reference. Copies of the Division's report will be attached hereto and

submitted to the Metropolitan King County Council. An approved timber management plan has been received; the staff recommends approval of the application, subject to standard conditions.

3. This is an application for current use valuation for timberland filed pursuant to RCW Chapter 84.34 and King County Code Chapter 20.36 which was received prior to December 31, 1995. Notice of the April 10, 1996, public hearing was published on March 20, 1996, in the Seattle Times.

CONCLUSIONS:

1. The conclusions stated in the Natural Resources Division's Preliminary Report to the Hearing Examiner for the April 10, 1996, public hearing are found to be correct and are incorporated herein by reference.
2. The property to be classified contains more than 5 and less than 20 acres of timber land and lies within an established forestry zone. A timber management plan has been received for the property subject to the application.

RECOMMENDATION:

APPROVE the application of MEL SCHWAN for current use classification of 6.78 acres as timberland, subject to the standard conditions of approval.

RECOMMENDED this 16th day of April, 1996.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 16 day of April, 1996, to the following parties and interested persons:

Mel Schwan
George Kritsonis, Tax Assessor's Office
Ted Sullivan, Natural Resources Division
Charlie Sundberg, Cultural Resources Division
Connie Walton, Natural Resources Division
Stephanie Warden, Metropolitan King County Council

NOTICE OF RIGHT TO APPEAL AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before April 30, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before May 7, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE APRIL 10, 1996 PUBLIC HEARING ON NATURAL RESOURCES DIVISION
FILE NO. E95CT004 - SCHWAN:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Ted Sullivan and Mel Schwan.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Not offered
Exhibit No. 2	Not offered
Exhibit No. 3	Not offered
Exhibit No. 4	Department of Natural Resources, Natural Resources Division Preliminary Report to the King County Hearing Examiner for the April 10, 1996 public hearing
Exhibit No. 5	Introductory Ordinance to Council
Exhibit No. 6	Affidavit of Publication
Exhibit No. 7	Legal Notice to Council
Exhibit No. 8	Notification to Applicant of Hearing
Exhibit No. 9	Application, Signed/Notarized
Exhibit No. 10	Legal Description
Exhibit No. 11	Assessor maps
Exhibit No. 12	King County Situs Report
Exhibit No. 13	Site map
Exhibit No. 14	Arcview map
Exhibit No. 15	TRW Property Profile
Exhibit No. 16	Forest Stewardship Plan
Exhibit No. 17	Letter from applicant dated September 19, 1995

SLS:gb
Attachment
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STANDARD CONDITIONS FOR
CURRENT USE CLASSIFICATION

Classification of the subject property shall be subject to the mutual covenants and conditions contained in Washington State Department of Revenue Form PTF 81, "Open Space Taxation Agreement", and subject to the following conditions which shall be added to said Open Space Taxation Agreement Forms:

- a. Any residence on the property shall be served by a sewage disposal system which is maintained in an operating condition adequate to prevent the pollution of surface and ground waters.
- b. The subject property shall be managed in accordance with the Forest Management Plan during the term of the Open Space Taxation Agreement.
- c. Withdrawal from classification. When land has been classified under this chapter, it shall remain under such classification and shall not be applied to other use for at least ten years from the date of classification until and unless withdrawn from classification after notice of request for withdrawal shall be made by the owner. During any year after eight years of the initial ten-year classification period have elapsed, notice of request for withdrawal of all or a portion of the land may be given by the owner to the county assessor or assessors of the county or counties in which such land is situated. In the event that a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when such land was originally granted classification pursuant to this chapter. Within seven days the county assessor shall transmit one copy of such notice to the legislative body which originally approved the application. The county assessor or assessors, as the case may be, shall when two years have elapsed following the date of receipt of such notice, withdraw such land from such classification and the land shall be subject to the additional tax due under RCW 84.34.108, Provided, That agreement to tax according to use shall not be considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty shall be imposed.
- d. Exploration for oil, gas or other minerals shall not be considered a change in use of the property. The extraction of oil, gas or other minerals from the property shall be considered a change of use of the property, unless the property owner does not have an interest in the mineral rights of the property, and the structures, openings and activities involved in the extraction of minerals in no way diminish the open space and/or recreational characteristics of the property.

ATTACHMENT